

## CHAPTER 3.—PAY AND ALLOWANCES : GENERAL RULES.

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## Due Date.

38. Pay bills may be signed at any time on the last working day of the month by the labour of which the pay is earned, and are due for payment the next working day. But pay bills payable at Provincial Headquarters, which require to be pre-audited, and those payable at District Treasuries may be signed and presented for payment three and two days respectively before the last working day of the month to which they relate. Payment of such bills, however, should not be made before the first working day of the next month. In the following cases separate bills must be presented in India for pay or pension (see Article 943, C. S. R.) due for part of a month, and these bills may be paid before the end of the month.

- (a) When an officer proceeds out of India on deputation or on leave.

NOTE.—If a Government servant wishes under the provisions of Fundamental Rule 91, to draw his leave salary in India, he will not be paid up to the date of his relief, but will be allowed to draw his pay and allowances for the broken period of the month at the commencement of the next month along with the leave salary for the rest of the month.

- \*(b) When an officer is transferred to another Audit Circle, or within the same Audit Circle (i) to or from the Public Works or Forest Department or (ii) from one Public Works Division to another.
- (c) When an officer finally quits the service of Government or is transferred to Foreign Service.
- (d) When there is a variation in the rate of a pension consequent on the disbursement of the commuted value of a portion of it.

\*1. If the first six days of a month are public holidays on which pay and pensions are not disbursed at the treasury, the local Government may, if it thinks fit, direct the payment on the last open day before the holidays,

- (a) of pay bills except those of gazetted officers, and
- (b) of pension bills of pensioners drawing pensions of Rs. 100 or less.

The powers of a local Government under this rule have been delegated to the Auditor General, all Accountants General including the Military Accountant General, and the Comptrollers, Assam and North-West Frontier Province, in respect of their own and subordinate offices.

2. The last payment of pay should not be made to a gazetted officer or to an officer referred to in Article 48, whose pay is drawn on pay bill forms, finally quitting

the service of Government or placed under suspension, until the Treasury Officer has satisfied himself, by reference both to the Accountant General and to his own records, that there are no demands outstanding against him. In other cases payment may be made without reference to the Accountant General on the responsibility of the head of the office concerned.

3. In the case of officers and establishments accompanying Governments to hill stations, pay bills drawn at the hill station for payment at the provincial capital, or *vice versa*, may be signed one, two or three days before the end of the month, though they will not be due for payment before the first working day of the next month. Pay bills of the Government of India Secretariat and other offices, while at Simla, may be signed and presented for pre-audit five days before the last working day of the month to which they relate.

4. In case of transfers to and from service in Persia, pay will be paid up to the date when the transfer takes place, whether the officer changes his circle of audit or not.

5. The establishment pay bills of the Military Test Audit staff attached to the office of the Controller of Military Accounts, Burma District, Maymyo, which are required to be drawn and signed by the Deputy Director of Army Audit, Eastern Command, Meerut, may be so signed 8 days before the last working day of the month to which they relate though they will not be due for payment before the first of the next month.

#### Death of Payee.

39. (a) Pay, allowances or pension can be drawn for the day of a man's death; the hour at which death takes place has no effect on the claim.

(b) Pay and other allowances claimed on behalf of a deceased officer may be paid without the production of the usual legal authority (1) to the extent of Rs. 500 under orders of the Collector or other officer responsible for the payment after such enquiry into the rights and title of the claimants as may be deemed sufficient; (2) for the excess over Rs. 500 under the orders of the local Government on execution of an indemnity bond, with such sureties as it may require, if it is satisfied of the right and title of the claimant and considers that undue delay and hardship would be caused by insisting on the production of letters of administration.

In any case of doubt payment should be made only to the person producing legal authority.

Any person claiming as the heir of a deceased pensioner should be required to produce the pensioner's half of the Pension Payment Order, or if no Pension Payment Order has been issued the copy of the order in which sanction to the pension was communicated to the pensioner or his heir.

(c) The rules regarding payment of pensions of deceased pensioners are contained in the Civil Service Regulations, Articles 959—961.

NOTE.—Rule 2 under Article 38, regarding last payments of pay, applies here also.

40. (a) The death of every European officer of Government other than an officer of the Army or Navy, must be immediately reported by the head of his office to the Government under which he was serving, which will announce the circumstance direct to the High Commissioner for India and send a copy of the report to the department of the Government of India concerned as well as to the Public Health Commissioner with the

Government of India for information. The death of such pensioners should similarly be reported, but the report to the Government in their case will be submitted by the Account Office which should be furnished with the necessary particulars by the officer who has been disbursing the pension. This report should be submitted in Form 31.

(b) Treasury Officers will also furnish the Account Office concerned, annually on the 1st December, with a list of all retired officers of Gazetted rank, drawing pension from the treasury whose deaths within the preceding twelve months have come to their notice.

The list should give the following information :—

1. Name.
2. Service or appointment.
3. Date (of death).

*N.B.*—Any honours and distinctions (including the Kaisar-i-Hind Medal) which had been awarded to the deceased officer should be specified in the list.

(c) In addition to the immediate report to the High Commissioner required by clause (a) above, a telegraphic report to the Secretary of State in Council should be sent by the Government concerned whenever any European Officer of the Superior Civil Services, while on Service in India, is killed or severely wounded by fanatics or others or meets with sudden or violent death in any very special circumstances.

#### **Last-pay Certificates.**

41. Forms of last-pay certificates, to be granted in certain circumstances by the Treasury Officer, are set forth in Appendix 8A. A Treasury Officer must be careful not to pay the pay and allowances to an officer to whom he has granted a last-pay certificate, unless the certificate is first surrendered.

1. The form of last-pay certificate prescribed provides for detail of the fund deductions although the officer preparing the bills is responsible for their correctness; but the Treasury Officer is responsible not only for entering in the certificate all demands against the departing officer, including any made under an order of attachment of his pay by a Court of law, of which he may have received notice before granting the certificate, but for passing on any, of which he may afterwards receive notice, to the treasury from which the officer will in future draw pay.

2. In all cases of transfer from one district to another within the same Audit Circle, the last-pay certificate should specify the last regular or monthly payment; and the entire pay for the month in which transfer has been made should be paid in the new district except as provided in Article 38 (b).

3. In the case of the pay bill of a Government servant of whatever rank required to accompany the headquarters of Government to a hill station or other station which has been declared to be the headquarters of Government for the time being the signature or counter-signature of a gazetted Government servant on the bill may be treated as a last pay certificate for the purpose of Treasury Order 22 (*vide* Appendix 8C).

#### **Bond of Indemnity for drawing Leave Salaries, etc.**

42. (a) Officers often make arrangements with their agents to draw their leave salaries or vacation allowances, pensions, etc., either granting them powers of attorney to enable them to do so, or leaving their bills

ready signed in the agent's custody for presentation, the agents in their turn giving Government a bond of indemnity as security against any loss in case of over-payment.

\*NOTE.—A Register of Power of Attorney will be kept by the Treasury Officer in the form prescribed in paragraph 50 of the Government Securities Manual.

(b) The bond of indemnity, which must be stamped, may be of the following form in the case of a  $\frac{\text{firm}}{\text{bank}}$  :—

In consideration of  $\frac{\text{our}}{\text{their}}$  being permitted to draw the  $\frac{\text{pay}}{\text{leave salary}}$  pension of.....during his absence from the Presidency, we  $\frac{\text{the (here insert the name of bank)}}$  hereby engage to refund to Government, on demand, any over-payment that may be made to  $\frac{\text{us}}{\text{them}}$  as his  $\frac{\text{agents}}{\text{agent}}$ .

(c) It must of course be seen that the person signing the bond of indemnity has authority to bind the firm or bank.

(d) It is not necessary, however, for a separate bond to be entered into in the case of each individual officer. Agents of standing and respectability may, for this purpose, be allowed to enter into a general agreement in the form given in Appendix I, provided that they are bankers who are incorporated in the United Kingdom or the British Dominions and are in the position of drawing pay, pension, etc., for a considerable number of officers.

(e) Subject to the proviso mentioned in clause (d) above, agents of standing and respectability are also allowed to execute a single bond in the form given in Appendix I to cover the leave salaries, pensions, etc., of their constituents, payable not by any one Account Officer only, but by all Account Officers, whether Civil or Military. Arrangements for the execution of such a bond must be made through the Auditor General. A list of the Agents who have executed such bonds of indemnity is given below :—

1. The Imperial Bank of India, its local head offices and branches in Calcutta, Madras and Bombay and elsewhere, and such other local head offices and branches as may hereafter be established.
2. The National Bank of India, Limited.
3. The Hongkong and Shanghai Banking Corporation, Bankers and Army Agents.
4. The Allahabad Bank, Limited.
5. The Bank of India, Limited.
6. The Army and Navy Co-operative Society, Limited.
7. Messrs. Binny & Co., Limited, Bankers and Army Agents.

8. Messrs. Thomas Cook and Son.
9. Messrs. Grindlay & Co.
10. Messrs. Parry & Co.
11. Messrs. Cowasjee, Dinshaw and Brothers.
12. Messrs. Lloyds Bank, Limited.
13. The Central Bank of India, Limited.
14. The P. & O. Banking Corporation, Limited.
15. Bansilal Ram Rattan, R. B., Bankers, Lahore Cantonment and Bangalore.
16. Bansilal Abirchand, R. B., Bankers, Bombay, Calcutta, etc., etc.
17. The Mercantile Bank of India, Limited, Madras.
18. The Punjab National Bank, Ltd.
19. The American Express Company, Incorporated, Bombay.
20. The Bengal Central Bank, Limited.
21. The Bank of Bihar, Limited.
22. The Benares Bank, Limited.
23. Messrs. Bhugwan Das and Company, Limited, Bankers, Dehra Dun.

NOTE.—The form of the bond executed under clauses (d) and (e) of this Article requires advice to be sent to the Secretary of State of any change in the constitution of an un-incorporated firm. When such advice is received in the Account Office, a recognition of the existing agreements that have been concluded previous to the change in the partnership should be obtained either by calling for fresh agreements to be executed by the new partnership or by obtaining an acknowledgment from the new partnership that they are bound by the existing agreement of the old partnership or otherwise.

#### Fund Deductions.

43. The duty of noting the proper deductions to be made from pay bills on account of funds devolves on the drawers of the bills, but no discretion is allowed in carrying out an order received from the Accountant General or a Fund Examiner to make any particular deduction.

NOTE.—The Treasury Officer must, however, check the deductions in the case of the Indian Civil and Indian Military Service Family Pension Regulations and the Superior Services (India) Family Pension Fund Rules.

#### \*Income-Tax Deductions.

44. The sole authority for the recovery of income-tax is contained in the Indian Income-tax Act, 1922 (XI of 1922) and the rules and orders issued under it and brought together in the Income-tax Manual. The instructions given below have no validity except in so far as they reproduce the exact wording, or represent correctly the meaning of the Act and the rules thereunder, and no doubtful cases should be decided except by reference to the Act and, if necessary, to the Income-tax authorities.

45. As regards the recovery of income-tax, treasury and Audit offices are concerned solely with the recovery at the time of payment on "salaries" as defined in section 7 (1) of the Act and on "interest on securities". It is important to notice that the income-tax under the head "salaries" has at the time of payment to be deducted at the rate applicable to the estimated income of the assessee from the head "salaries" [vide section 18 (2) of the Act], provided that the amount of income-tax can, at the time of deduction, be increased or reduced for the purpose of adjusting any excess or deficiency arising out of any previous deductions or failure to deduct.

In respect of pay bills of establishment presented to them for payment, Treasury Officers are required to see only that deductions of income-tax are not omitted where some deduction should clearly be made.

NOTE 1.—A person responsible for paying salaries is not bound by law to deduct at the time of payment of salary income-tax on the value of rent-free quarters enjoyed by the person drawing the salary. The Income-tax Officer is therefore responsible for the assessment and for the collection of tax on the value of rent-free quarters, though this particular source of income is included under the head "Salaries". There is however no objection to the person disbursing a salary deducting tax on account of the value of rent-free quarters enjoyed by the assessee should the latter request him to do so.

NOTE 2.—Where a special salary circle has been created to deal with the case of assesses in the service of the Government whose pay is subject to the audit of a particular audit officer, a special income-tax schedule should be attached to all pay bills of gazetted or non-gazetted Government servants showing :—

- (1) Name of officer with official designation.
- (2) Gross amount of salary.
- (3) Deductions on account of provident and other funds.
- (4) Deductions on account of life insurance premia.
- (5) Net salary on which tax has been calculated.
- (6) Income-tax deducted.

Forms I. T.-47 and 47-A. have been approved by the Central Board of Revenue as standard forms of this schedule, and should be used in connection, respectively, with pay bills of Gazetted Officers and of non-gazetted establishments. This schedule should be sent to the Income-tax Officer through the Audit or Account Officer concerned so that the latter may verify the amounts deducted in the bill with those entered in the schedule or direct as the Income-tax Commissioner of the province may desire.

NOTE 3.—Officers making payments on account of rewards, examiners' fees and other similar payments not strictly falling under the definition of "Salaries" to Government servants should communicate them to the Income-tax Officers concerned by a separate letter or memorandum when the payment is actually made. In those Provinces or Departments in which the Statutory provisions of Rules 15 to 17 of the Indian Income-tax Rules, 1922, have been superseded by a system of monthly schedules of income-tax deductions, the drawer of the bill should include in column 3 (d) of the schedule (with a suitable note in the Remarks column) receipts by Government servants, from Government, of income not falling under the head "Salaries"; and the Accounts or Treasury Officer paying the bill will, after payment, pass on the schedule, duly verified, to the Income-tax Officer concerned.

45-A. Sterling Overseas Pay disbursed in England should, under Section 18 (2-A) of the Act, be taxed by deduction at source in India, along with, and in precisely the same manner as, rupee pay actually drawn in India.

46. Relevant extracts from the rules regarding Income-tax refunds which *in extenso* are contained in Income-tax Office Manual are reproduced in Appendix 2.

### Rent Deductions.

46-A. Demands for rents of buildings of the Public Works Department, recoverable from Government servants, are prepared in P. W. A. Form No. 48 (Statement of rents recoverable from pay bills) and are received from Divisional Officers in duplicate towards the end of each month. The amounts specified by the Divisional Officer should be recovered, without prior reference to the Government servants concerned, from the next bills in which their pay is drawn. Thereafter one copy of his demand should be returned to the Divisional Officer after noting the amounts recovered, and the other copy should be attached to the bill from which the recoveries are made. In noting the deductions in the bills, the name of the Public Works Division, the major head of account to be credited, and the name of the canal, etc., as given in the Divisional Officer's demand, should be shown.

1. If the rent recoverable from a Government servant is limited to a certain percentage of his emoluments, the particulars of such emoluments should be noted in the statement of rents, before its return, in the column for remarks. Where, after the return of the statement of rents, the emoluments of a Government servant are changed retrospectively, such changes should either be shown in the next statement or intimated to the Divisional Officer by a special letter.

### Attachment of Pay for Debt.

46-B. I. The pay of a Government servant while on duty is exempt from attachment for debt to the extent of—

- (i) the whole of pay, where it does not exceed forty rupees monthly ;
- (ii) forty rupees monthly, when the pay exceeds forty rupees and does not exceed eighty rupees monthly ; and
- (iii) one moiety of the pay in any other case.

II. Leave salary, if less than pay, is wholly exempt from attachment, but leave salary which is equal to pay is liable to attachment to the same extent as pay while on duty.

NOTE 1.—Compensatory allowances are not included in the term "pay" for the purpose of this rule and should be treated as exempt from attachment by a Civil Court. Exchange Compensation allowance is included.

NOTE 2.—The maximum pay attachable by a Civil Court is the pay earned and not what remains after satisfying any debts due to Government on account of advances taken under rule.

NOTE 3.—Subscriptions to funds recognised by Government, instalments in repayment of advances from the General Provident Fund and recoveries of income-tax, deductions for which appear in the pay bills, should be excluded from the aggregate pay for the purpose of attachment by a Civil Court.

NOTE 4.—Sterling Overseas Pay, or that portion of leave salary which is based on Sterling Overseas Pay, not being payable in British India, is not liable to attachment by a Court of Law in India as part of pay or leave salary of a public officer and cannot be taken into account in assessing the amount which is liable to such attachment.

NOTE 5.—Cases may occur in which the judgment debtor does not sign the acquittance roll and intentionally allows his pay to remain undischarged; or the judgment debtor, being a gazetted officer, or not being a gazetted officer but being permitted to draw his pay on a separate pay bill may refrain from preparing his pay bill and drawing his pay regularly in order to evade payment on account of an attachment order issued by a Court of Law. In such circumstances the Head of the office or, in the case of a gazetted officer or of an officer treated in this respect like a gazetted officer, the Administrative Officer of the Department concerned may draw the pay of the judgment debtor in satisfaction of the attachment order subject to the restrictions laid down in the main rule and remit the amount to the Court concerned. The amount of the pay drawn should be charged in the accounts, the particulars of the attachment order being cited in the acquittance roll or the pay bill, as the case may be, as an authority for the charge and the Court's receipts for the amount should be filed with the attachment register.

III. When a single month embraces a period during which a Government servant has been absent from duty and a period during which he has been on duty, each of the two periods should be treated separately, and leave salary for the period of absence, provided it is less than pay, will be exempt from attachment, while the pay for the other period will be liable to attachment, subject to the exemption in I above.